

STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

MUR: No. 04-0076

STATEMENT OF REASONS OF EXTERNAL INVESTIGATIVE CONSULTANT

On behalf of the Citizens Clean Elections Commission (“Commission”), the External Investigative Consultant hereby provides the Statement of Reasons showing reason to believe violations of the Citizens Clean Elections Act (“Act”) and Commission rules have occurred.

I. Procedural Background

In connection with its examination of MUR No. 04-0060, involving a complaint filed against Ken Chevront (“Respondent”), a participating candidate for State Senator, District 15, by Patrick Meyers, which has been dismissed after the Commission found no reason to believe the Act had been violated as alleged in the complaint, this Matter was commenced as an internally-generated complaint and the Respondent was notified of the proceeding on June 6, 2005. Exhibit A. On June 14, 2005, Respondent responded, specifically denying all the allegations of the complaint and furnishing an affidavit of the President of a vendor to Respondent’s campaign supporting the denial. Exhibit B.

II. Alleged Violations

The complaint alleges (a) that Respondent made an expenditure of \$4,240.00 for printing and mailing campaign literature and for campaign phone calling prior to August 13, 2004, the date Respondent qualified for Clean Elections funding, and (b) that Respondent exceeded the Act’s limit of \$550.00 on legislative candidate’s personal monies that may be expended in a campaign. Each allegation is dealt with separately, as follows:

Early Spending for Printing, etc.

Attached as Exhibit C is a copy of an invoice from Eiverness Consulting in the amount of \$4,240.00 to Respondent dated August 2, 2004, marked “paid”, for mailers, phone calls and campaign management. It was this document that gave rise to the allegation of violation of the Act. Respondent’s response explains that while the document is marked “invoice” and “paid”, it actually was nothing more than a proposal and was not accepted by Respondent until after he was funded, at which time he could have rejected or modified the proposal as no obligation had been created. An affidavit of Mr. Michael Bradley, President of Eiverness, supports Respondent. Casting doubt is the fact that Respondent’s mailings were conducted jointly with another candidate, Wally Straughn, who was funded by the Commission on July 13, 2004, and paid his half of the project on July 22, 2004. Nevertheless, the invoice was not paid as and when indicated nor was it paid prior to Respondent’s certification for funding. Perhaps at most, this

certainly amounts to curious business practice. But there is more. Printing of the mailings made jointly by Straughn and Respondent was performed by Mountain Graphics and Design (“MGD”), which is referred to in paragraph 17 of the Affidavit attached as Exhibit B. A copy of the invoice in the amount of \$3,960.00 to the Straughn campaign for its share of the joint materials is attached, showing the work was performed and shipped on August 2, 2004. Exhibit D. During a meeting with Commission staff in May, 2005, Respondent agreed to furnish a copy of his invoice from MGD. Following up by telephone to obtain it, staff was advised by Respondent that his agreement with MGD was verbal and that he had no invoice. Finally, on August 12, 2005, Respondent delivered to the Commission a sworn statement and a copy of the MGD invoice dated August 2, 2004, for \$3,960.00 for the printing and graphic design of the “team pieces”. Exhibit E. At this point there is reason to believe a violation of the Act or Commission rules occurred, warranting an investigation.

Exceeding Personal Monies Limit

A.R.S. Sec. 16-941(A)(2) provides that participating legislative candidates shall not make total expenditures of more than \$550.00 of personal monies in a campaign. The complaint alleged that Respondent made personal monies expenditures amounting to \$622.30 and exceeded the limit set by the Act.

As originally filed, Respondent’s campaign finance report identified four expenditures, totaling \$952.30, made prior to August 13, 2004. Included were an expenditure of \$330.00 to the US Post Office for stamps and an expenditure of \$391.92 to Respondent’s previous campaign committee for yard signs. Exhibit F. Respondent reported receiving \$330.00 in early contributions, leading to the conclusion that \$622.30 of personal monies had been contributed.

Respondent amended his campaign finance report, deleting the expenditures for stamps and yard signs, adding an expenditure of \$102.70 for a subscription to the Arizona Republic and bringing his expenditures down to a total of \$333.08 prior to August 13, 2004. Exhibit G. The expenditure for stamps then appeared as an expenditure of \$330.00 on August 31 to Bank of America (presumably the stamps were purchased on August 3 using a credit card), and the expenditure for yard signs vanished and was replaced by a September 13, 2004 expenditure (after the primary election) of \$283.22 to the previous campaign committee for the signs.

Based upon the complaint, respondent’s conflicting campaign finance reports, and the results of staff study, the External Investigative Consultant recommends the Commission find reason to believe violations of the Act occurred warranting an investigation.

III. Reason to Believe Finding

If the Commission determines by an affirmative vote of at least three of its members that it has reason to believe a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify Respondent of the

finding setting forth: (1) the sections of the statute or rule alleged to have been violated; (2) the alleged factual basis supporting the finding; and (3) an order requiring compliance within fourteen days. During that period, the Respondent may provide any explanation to the Commission, comply with the order, or enter a public administrative settlement. A.R.S. Sec. 16-957(A) and A.A.C. R2-20-208(A).

After the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, the Commission shall conduct an investigation. A.A.C. R2-20-209(A). Upon expiration of the fourteen days, if the Commission finds that the alleged violator remains out of compliance, the Commission shall make a public finding to that effect and issue an order assessing a civil penalty in accordance with A.R.S. Sec. 16-942, unless the Commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. A.R.S. Sec. 16-957(B).

Dated this 17th day of August, 2005

By: _____
L. Gene Lemon
External Investigative Consultant